

**NEVADA DEPARTMENT OF  
CONSERVATION & NATURAL RESOURCES**

**STATE ENVIRONMENTAL COMMISSION**

**HEARING ARCHIVES FOR**

**REGULATORY PETITIONS**

**COMMISSION PETITION NO. 96009**

**LEGISLATIVE COUNSEL BUREAU (LCB) FILE NO. R-021-96**

**DOCUMENTS INCLUDED IN THIS FILE:**

**YES SECRETARY OF STATE FILING FORM**

**YES DISCLOSURE STATEMENT PURSUANT TO NRS 233B**

**REGULATORY PETITIONS**

**ORIGINAL DRAFTED BY COMMISSION**

**ADOPTED BY COMMISSION**

**YES AS FILED AND CODIFIED BY LCB**

Secretary of State  
Filing Data

For Filing Administrative  
Regulations

For Emergency  
Regulations Only

Effective Date \_\_\_\_\_

Expiration Date \_\_\_\_\_

\_\_\_\_\_  
Governor's Signature

### State Environmental Commission

Classification [ ] Proposed [ ] Adopted By Agency [xx] Temporary [ ] Emergency [ ]

**Brief description of action:** LCB R-021-96 (Petition 96009) permanently amends NAC 445B.001 to NAC 445B.395 by deleting provisions requiring Best Available Control Technology (BACT) for air quality stationary sources not subject to the provisions of 40 C.F.R. § 52.21. Also amended is the definition of "major source" by excluding particulate matter greater than 10 microns. In addition, definition of "potential to emit" is amended to eliminate the provision requiring that air quality operating permits be federally enforceable. NAC 445B.028, 445B.094 and 445B.138 are amended.

**Authority citation other than 233B:** NRS 455B.210

**Notice date:** February 23, February 28 and March 5, 1996

**Hearing date:** March 26, 1996

**Date of Adoption of Agency:** March 26, 1996

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED  
BY ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
PETITION 96009  
LCB FILE R-021-96**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 445B.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Petition 96009 (R-021-96) was noticed three (3) times: February 23, February 28 and March 5, 1996 in the Las Vegas Review Journal and the Reno Gazette-Journal newspapers. No comments were received from the public regarding this petition. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 extension 3117, or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

**2. The number persons who:**

- |     |   |    |
|-----|---|----|
| (a) | Attended each hearing;                    | 40 |
| (b) | Testified at each hearing;                | 16 |
| (c) | Submitted to the agency written comments: | 3  |

Note: One written comment was received regarding this petition. No testimony was received at the Commissions hearing of March 16, 1996 regarding technical changes to the State's air quality regulations.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and a explanation how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses by the notices in the newspapers, as outlined in #1 and by direct mail to interested persons subscribing to the Commission's mailing list. One written comment from Newmont Gold Company (exhibit #3). The comments were supportive of State's efforts at ensuring consistency with federal regulations and court rulings. A copy of the written comments may be obtained by calling the Nevada State Environmental Commission (702) 687-4670 or writing to the Commission at 333 W. Nye Ln., Room 128, Carson City, Nevada 89710.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted at the State Environmental Commission hearing on March 26, 1996 with no changes made to the regulation. No changes were proposed during adoption of the regulation.

**5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:**

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.
  - a. The proposed amendments will have a beneficial economic effect on an estimated 90 stationary source facilities in Nevada. Those facilities will not be required to submit new title V permit applications in 1996. The estimated saving to each regulated facility will be \$15,000 for a total saving of \$1,350,000. In the long term, facilities will benefit economically by avoiding Title V requirements such as compliance reporting, enhanced monitoring and higher permitting costs.
  - b. It is estimated these facilities will save an additional \$10,000 annually, with an estimated annual saving of \$900,000 to Nevada businesses. The public will not realize any direct short term or long term benefit, however the public may receive an indirect saving due to reduced cost of operations.

**6. The estimated cost to the agency for enforcement of the adopted regulation.**

The Division of Environmental Protection will save an estimated 200 hours of staff time per facility for an overall annual cost savings of \$360,000.

**7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agencies which the proposed regulation overlaps or duplicates.

**8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.**

This regulation does not contain provisions more stringent than federal regulations.

**9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

This regulation does not provide or involve a new fee, and hence since no fee is involved there is not a total amount expected to be collected or used.

**END OF STATEMENT FOR R-021-96**

**ADOPTED PERMANENT REGULATION OF THE  
NEVADA STATE ENVIRONMENTAL COMMISSION**

LCB File No. R021-96

EXPLANATION - Matter in *italics* is new. Matter in [ ] is material to be omitted.

AUTHORITY: NRS 445B.210

**Section 1.** NAC 445B.028 is hereby amended to read as follows:

**445B.028 [1.]** For a stationary source that is subject to the provisions of 40 C.F.R. § 52.21, "best available control technology" has the meaning ascribed to it in 40 C.F.R. § 52.21, as incorporated by reference in NAC 445B.221.

**[2. For a stationary source that is not subject to the provisions of 40 C.F.R. § 52.21, "best available control technology" means a technology which reduces the emission of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, carbon monoxide, lead, beryllium, mercury, fluoride, vinyl chloride, total reduced sulfur, hydrogen sulfide, reduced sulfur compounds, hazardous air pollutants, and toxic regulated air pollutants to the maximum extent possible for any source for which preparation of an environmental evaluation is required, taking into account:**

**(a) Energy;**

**(b) Environmental impacts;**

**(c) Economic impacts; and**

**(d) Other costs for emission control systems and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for the control of each regulated air pollutant.]**

**Sec. 2.** NAC 445B.094 is hereby amended to read as follows:

**445B.094** 1. Except as otherwise provided in subsection 2, "major source" means any stationary source or group of stationary sources that:

**(a) Is located on one or more contiguous or adjacent properties;**

- (b) Is under the common control of the same person or persons;
- (c) Belongs to a single major industrial grouping as described in the "Standard Industrial Classification Manual," as incorporated by reference in NAC 445B.221; and
- (d) Complies with one of the following:
  - (1) Is located in a nonattainment area and is required to obtain an operating permit pursuant to 42 U.S.C. §§ 7501 to 7515, inclusive; or
  - (2) Directly emits or has the potential to emit:
    - (I) One hundred tons per year or more of any regulated air pollutant [;] , ***excluding particulate matter more than 10 microns in diameter***; or
    - (II) Ten tons per year or more of a hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants or a lesser quantity as established by the commission.

The director shall consider fugitive emissions in determining whether a stationary source is major for any source category listed in 40 C.F.R. § 52.21(b), as adopted by reference pursuant to NAC 445B.221, or whether a stationary source of a hazardous air pollutant is a major source. To determine whether a stationary source or group of stationary sources is a major source of hazardous air pollutants under 42 U.S.C. § 7412, emissions from any oil or gas exploration or production well, with its associated equipment, and emissions from any pipeline compressor or pump station must not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control.

2. For the purposes of the program for the prevention of significant deterioration of air quality (PSD), "major source" has the meaning ascribed to it in 40 C.F.R. § 52.21(b)(1), as adopted by reference in NAC 445B.221.

**Sec. 3.** NAC 445B.138 is hereby amended to read as follows:

445B.138 "Potential to emit" defined. "Potential to emit" means the maximum capacity of a stationary source to emit a regulated air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a stationary source to emit a regulated air pollutant, including equipment for the control of air pollution and any restrictions on the **[stationary source's]** hours of operation ***of the stationary source*** or on the type or amount of material combusted, stored, or processed, may be treated as part of its design for the purposes of determining

its potential to emit if the limitation is enforceable by the director . **[and the administrator, or by the director for Class II sources not subject to federal requirements.]**

END OF LCB R021-96